



## Exemption from Substantial Development Permit Requirements For Emergency Construction

**Date:** October 14, 2020

**To:** Thom Fischer  
Electron Hydro LLC  
1800 James Street Suite 201  
Bellingham, WA 98225

**RE:** Shoreline Exemption to a Substantial Development Permit Application: 945235  
Substantial Development/Environmental Checklist  
Application Numbers: 858766/858765  
Parcel Number: 0616032001

**Proposal:** Shoreline Exemption to a Substantial Development Permit to allow for temporary emergency construction actions needed to stabilize the Electron diversion feature work site for a period of time beginning in October 2020 and ending no later than July 2021.

This work has been determined to be necessary in a time frame too short to allow for full compliance with the Master Program. Authorized work is described in the County’s letter dated October 2, 2020: Amendment to Stop Work Order (attached).

The project site is in the Rural 20 (R20) zone classification, High Intensity Shoreline Environment Designation.

**Location:** 30020 Lookout Road East, WA. Council District #3

**Decision:** It has been determined that the above proposal meets the allowances of an Exemption to a Substantial Development Permit for Emergency Construction per Pierce County Code, Title 18S, Shoreline Management Regulations, Subsection 18S.60.020.C.4.

**Appeal:** In accordance with Pierce County Code 1.22, Appeals of Administrative Decisions to the Examiner, any person aggrieved, or affected by any decision of an administrative official may file a notice of appeal. A notice of appeal, together with the appropriate appeal fee, shall be filed within 14 days of the date of an Administrative Official’s decision, at the Public Services Building, Development Center, Planning and Public Works Department, 2401 So. 35<sup>th</sup> Street, Tacoma, Washington.

October 14, 2020  
Date

Dave Risvold / Shoreline Planning Supervisor  
Signature of Authorized Local Governmental Official

**Notes:**

1. This review is limited to the stabilization items defined in the October 2, 2020 County letter: Amendment to Stop Work Order, attached
2. All materials associated with the Rock-Fill Dam, shown in Exhibit 1-ELE\_Xtemp-0a-PlanProfile-REDUCED.pdf submitted to the County on September 28, 2020, shall be removed by August 1, 2021
3. The applicant is responsible for obtaining permits/approvals from all agencies with jurisdiction including, but not limited to, US Army Corps of Engineers and the Washington State Departments of Ecology and Fish and Wildlife prior to work. It shall be the sole responsibility of the applicant to secure all required permits/approvals.
4. Authorization to conduct the noted activities shall terminate August 1, 2021.
5. Pursuant to WAC 197-11-880 (Emergencies), State Environmental Policy Act (SEPA) review is not being required at this time.

[DWR]:[PG]

EC: Washington State Department of Fish and Wildlife, Attn: Gwen Lentes,  
[Gwendolen.Lentes@dfw.wa.gov](mailto:Gwendolen.Lentes@dfw.wa.gov)  
Department of Fish and Wildlife, Attn: Liz Bocksteigel, [Elizabeth.Bockstiegel@dfw.wa.gov](mailto:Elizabeth.Bockstiegel@dfw.wa.gov)  
US Army Corps of Engineers, Jacalen Printz Printz, Jacalen M CIV USARMY CENWS (US)  
Washington State Dept. of Ecology, Attn: Zach Meyer, [zmey461@ecy.wa.gov](mailto:zmey461@ecy.wa.gov)  
Washington State Department of Ecology, Attn: Donna Joblonski, [dmca461@ecy.wa.gov](mailto:dmca461@ecy.wa.gov)

Electron EXM-DWR.docx

Attachment: Amendment to Stop Work Order, October 2, 2020



October 2, 2020

Thom Fischer Electron Hydro LLC  
1800 James Street Suite 201  
Bellingham, WA 98225  
[thom@Tollhouseenergy.com](mailto:thom@Tollhouseenergy.com)

Subject: **Amendment to Stop Work Order**  
Electron Hydro Facility Compliance, Shoreline Substantial Development  
Permit Application 858766 and 858765

Mr. Fischer,

We are in receipt of your revised over-winter stabilization plans, submitted September 28<sup>th</sup>. The revised plans are consistent with our September 11<sup>th</sup> letter which required that stabilization be confined to the diversion structure footprint permitted by your shoreline substantial development permit.

The September 28<sup>th</sup> revised plans are approved. Pierce County also approves of an extension to your work window and will defer to the Washington Department of Fish and Wildlife and US Army Corps of Engineers as to the ultimate extension date.

This letter supersedes our letter of September 28<sup>th</sup>, to the extent that we gave approval for a more extensive over-winter plan involving roughly 300 linear feet of channel armor. However, the conditions imposed by that approval remain in effect, most notably that the structure be removed by July 2021.

We find it greatly concerning that, from September 11<sup>th</sup> through September 28<sup>th</sup>, Electron assured the County and involved agencies that there was no more minimal over-winter option than to armor 300 feet of channel, only to then submit plans that reveal there was a considerably less impactful alternative. This exacerbated the delay to this project that was precipitated by the unpermitted work performed at the site. This was two-plus weeks that could have been used to correct deficiencies in the fish ladder and remove the remaining field turf. This delay has significantly impacted the fishery resource of the Puyallup River during the critical spawning time period in ways that cannot be calculated.

Electron Hydro remains obligated to obtain all applicable permits and approvals from other agencies, prior to commencing work. Other agencies may require more detailed plans/description of the emergency work to occur and Electron Hydro is wholly responsible for coordination to that end. Electron Hydro is also solely responsible for Endangered Species Act coverage consultation and compliance with all environmental laws and regulations.

Be advised that compliance with the mitigation requirements outlined above will not absolve Electron Hydro or any individuals or entities acting on its behalf from civil or criminal liability arising out of the environmental damage that has been caused by their actions.

The following items from our September 28<sup>th</sup> letter remain in effect:

Item 2: Remove partially buried concrete culverts placed vertically and filled with rubble located in bladder dam foundation area.

Item 5-9: These five items pertain to the need to dewater the current active channel to allow for the removal of remaining astro-turf. These items remain requirements however, their sequence may be modified as you propose in your September 12 e-mail.

- You are not required to truck offsite the material in the Conex boxes. This is river bed material and it may remain onsite. The placement of this considerable volume of material within the channel or on the bank is a considerable source of concern in regards to water quality. Please ensure your WQMP addresses this and have your water quality monitor assess sediment plumes that result, both in proximity to the material and within a 300 foot distance downstream.
- It is acknowledged that machinery may have to be in-water in order to remove the turf and liner. Please refer to the preceding bullet point for WQMP and monitoring requirements.
- Turf and rubber crumb is to be removed and located to a secure site for future analysis. Your River Cleanup memo indicates a storage container has been established for this.
- Super sacks remain the preferred cofferdam mechanism. If you prefer to use existing bed material, as you currently do upstream of the Conex boxes, you may but, this will necessitate additional review by the Department of Fish and Wildlife and the Corps which will delay things.

Item 10: To further ensure protection of fish stocks, Electron Hydro shall block off (weld or bolt shut) the entrance to prevent any water from entering the flume until such time as measures approved by agencies with authority are in effect to prevent accidental entrapment of fish.

Item 11: Materials should be inventoried to ensure their complete removal from the river.

Item 12: Once the site is clean, crane sling out any super-sacks that are present.

Item 13: Encore Environmental is currently serving as an independent site monitor to oversee work. Encore staff are to be onsite whenever river channel related activities are underway. Specific monitoring tasks have been defined in the County's letter of September 23rd.

No one specific person from Encore is responsible for serving as the monitor. It is expected that a number of different persons will serve this purpose. Encore may

engage the services of other qualified firms to assist with monitoring should they feel that to be necessary.

Item 14: Electron Hydro shall provide access to the Puyallup Tribe for monitoring at the Tribe's discretion and at any time.

Please continue to communicate your next steps as we move forward in the process. If you have any questions, contact Dave Risvold at [dave.risvold@piercecounitywa.gov](mailto:dave.risvold@piercecounitywa.gov), 253-798-7036 (desk) or 253-307-5929 (cell).

Sincerely,



Melanie D. Halsan  
Assistant Director, Planning and Public Works

EC: Bill Sterud, Chair, Puyallup Tribe  
Doug Richardson, Chair, Pierce County Council  
Don Anderson, Pierce County Executive's Office  
Jacalen Printz, US Army Corps of Engineers  
Carol Serdar, WA Department of Ecology  
Gwen Lentes, Program Manager Region 6, WA Department of Fish and Wildlife  
Jeff Huber, Encore Environmental, LLC  
Dennis Hanberg, Director, Pierce County Planning and Public Works  
Todd Campbell, Prosecuting Attorney's Office  
Chris Spens, [cspens@tollhouseenergy.com](mailto:cspens@tollhouseenergy.com)